



## **Texas Department of Insurance**

### **Division of Workers' Compensation**

Medical Fee Dispute Resolution, MS-48

7551 Metro Center Drive, Suite 100 • Austin, Texas 78744-1645

512-804-4812 telephone • 512-804-4811 fax • [www.tdi.texas.gov](http://www.tdi.texas.gov)

## **MEDICAL FEE DISPUTE RESOLUTION FINDINGS AND DECISION**

### **GENERAL INFORMATION**

#### **Requestor Name and Address**

FONDREN ORTHOPEDIC GP LLP  
7401 SOUTH MAIN  
HOUSTON TX 77030

#### **Respondent Name**

TRAVELERS CASUALTY & SURETY CO

#### **Carrier's Austin Representative Box**

Box Number 05

#### **MFDR Tracking Number**

M4-13-2671-01

#### **MFDR Date Received**

JUNE 18, 2013

### **REQUESTOR'S POSITION SUMMARY**

**Requestor's Position Summary as stated in the Request for Reconsideration letter dated December 4, 2012:** "House Bill 1005 provides that the provider does not forfeit the right to reimbursement if the claim is timely filed but erroneously filed to the wrong insurer. We are providing proof that the claim was submit to the wrong carrier in a timely manner."

**Amount in Dispute:** \$449.34

### **RESPONDENT'S POSITION SUMMARY**

**Respondent's Position Summary:** "The provider submitted the disputed billing to the Carrier outside the timeframe required by Rule 133.20(b). The Provider argues entitlement to reimbursement based on the exceptions to the 95-day timeframe found in Texas Labor Code Sect. 408.0272. In order to qualify for the exception under that Section, the Provider must demonstrate that the disputed billing was timely submitted to either the Claimant's group health carrier or another workers compensation carrier with the 95 days. The Provider must then further demonstrate that the disputed billing was then submitted to the proper workers compensation carrier within 95 days of being notified of the erroneous submission. The Provider in this dispute has submitted documentation entitled 'Explanation of Direct Deposit Activity', alleging to substantiate electronic filing of the disputed date of service with another unnamed carrier. This documentation, however, is for date of service 07-24-2012, and not the date of service at issue of 06-19-2012. The Provider has failed to document that the exception in Texas Labor Code Sect. 408.0272 applies."

**Response Submitted by:** Travelers, PO Box 163201, Austin, TX 78716

### **SUMMARY OF FINDINGS**

Dates of Service	Disputed Services	Amount In Dispute	Amount Due
June 19, 2012	Office visit with ancillary services.	\$449.34	\$0.00

### **FINDINGS AND DECISION**

This medical fee dispute is decided pursuant to Texas Labor Code §413.031 and all applicable, adopted rules of the Texas Department of Insurance, Division of Workers' Compensation.

## **Background**

1. 28 Texas Administrative Code §133.307 sets out the procedures for health care providers to pursue a medical fee dispute.
2. 28 Texas Administrative Code §133.20 sets out the procedures for health care providers to submit workers' compensation medical bills for reimbursement.
3. 28 Texas Administrative Code §102.4 sets out the rules for non-Commission communications.
4. Texas Labor Code §408.027 sets out the rules for timely submission of a claim by a health care provider.
5. Texas Labor Code §408.0272 sets out the rules for certain exceptions for untimely submission of a claim by a health care provider.
6. The services in dispute were reduced/denied by the respondent with the following reason codes:
  - 29 – The time limit for filing has expired.
  - TXH3 – Per Texas Labor Code 480.027 [sic], bills must be sent to the carrier on a timely basis, within 95 days from dates of service.

## **Issues**

1. What is the timely filing deadline applicable to the medical bills for the services in dispute?
2. Did the requestor forfeit the right to reimbursement for the services in dispute?

## **Findings**

1. 28 Texas Administrative Code §133.20(b) states, in pertinent part, that, except as provided in Texas Labor Code §408.0272, "a health care provider shall not submit a medical bill later than the 95<sup>th</sup> day after the date the services are provided." No documentation was found to support that any of the exceptions described in Texas Labor Code §408.0272 apply to the services in this dispute. For that reason, the requestor in this dispute was required to submit the medical bill not later than 95 days after the date the disputed services were provided.
2. Texas Labor Code §408.027(a) states, in pertinent part, that "Failure by the health care provider to timely submit a claim for payment constitutes a forfeiture of the provider's right to reimbursement for that claim for payment." 28 Texas Administrative Code §102.4(h) states that "Unless the great weight of evidence indicates otherwise, written communications shall be deemed to have been sent on: (1) the date received, if sent by fax, personal delivery, or electronic transmission or, (2) the date postmarked if sent by mail via United States Postal Service regular mail, or, if the postmark date is unavailable, the later of the signature date on the written communication or the date it was received minus five days. If the date received minus five days is a Sunday or legal holiday, the date deemed sent shall be the next previous day which is not a Sunday or legal holiday." Review of the submitted information finds no documentation to support that a medical bill was submitted within 95 days from the date the services were provided. Therefore, pursuant to Texas Labor Code §408.027(a), the requestor in this medical fee dispute has forfeited the right to reimbursement due to untimely submission of the medical bill for the services in dispute.

## **Conclusion**

For the reasons stated above, the division finds that the requestor has not established that reimbursement is due. As a result, the amount ordered is \$0.00.

## ***ORDER***

Based upon the documentation submitted by the parties and in accordance with the provisions of Texas Labor Code §413.031, the Division has determined that the requestor is entitled to \$0.00 reimbursement for the disputed services.

## **Authorized Signature**

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Medical Fee Dispute Resolution Officer

\_\_\_\_\_  
September 9, 2013  
Date

### ***YOUR RIGHT TO APPEAL***

Either party to this medical fee dispute has a right to seek review of this decision in accordance with 28 Texas Administrative Code §133.307, effective May 31, 2012, 37 *Texas Register* 3833, **applicable to disputes filed on or after June 1, 2012.**

A party seeking review must submit a **Request to Schedule a Benefit Review Conference to Appeal a Medical Fee Dispute Decision** (form **DWC045M**) in accordance with the instructions on the form. The request must be received by the Division within **twenty** days of your receipt of this decision. The request may be faxed, mailed or personally delivered to the Division using the contact information listed on the form or to the field office handling the claim.

The party seeking review of the MDR decision shall deliver a copy of the request to all other parties involved in the dispute at the same time the request is filed with the Division. **Please include a copy of the *Medical Fee Dispute Resolution Findings and Decision*** together with any other required information specified in 28 Texas Administrative Code §141.1(d).

**Si prefiere hablar con una persona en español acerca de ésta correspondencia, favor de llamar a 512-804-4812.**